

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY HIGGS,

Plaintiff,

09 Civ. 7945 (JGK)(GAY)

- against -

ROBERT ERCOLE,

MEMORANDUM OPINION AND  
ORDER

Defendant.

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JOHN G. KOELTL, District Judge:

The Court has received the Report and Recommendation of Magistrate Judge Yanthis dated November 23, 2011.

The Report and Recommendation recommended that this petition for habeas corpus be dismissed in its entirety.

The petitioner requested and received two extensions of his time to file an objection to the Report and Recommendation. After the plaintiff did not file any objections during the extended period for filing objections, the Court again extended, sua sponte, the petitioner's time to file any objections, and noted that there would be no further extensions of time and that, if no objections were filed, "the Court will consider the Report and Recommendation without any objections." Order dated March 23, 2012, Higgs v. Ercole, No. 09 Civ. 7945 (S.D.N.Y.), ECF No. 23. No objections were filed, and the time to file objections has now expired.

Therefore, the Court adopts the Report and Recommendation. The Court finds that it is well-reasoned and also finds that there are no well-taken objections. In accordance with the Report and Recommendation, the petitioner's petition for habeas corpus is **denied** in its entirety.

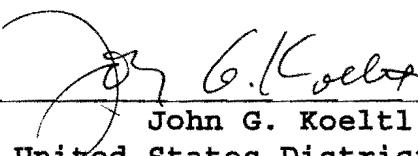
#### CONCLUSION

For the reasons explained above, the Court adopts the Report and Recommendation of Magistrate Judge Yantthis. The Court declines to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c) because the petitioner has failed to make a substantial showing of the denial of a constitutional right.

The Clerk of the Court is directed to enter judgment closing this case. The Clerk is also directed to close any pending motions.

SO ORDERED.

Dated: New York, New York  
April 14, 2012

  
John G. Koeltl  
United States District Judge